

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BYRON BIGGS,

Plaintiff,

-vs-

P & B CAPITAL GROUP,

Defendant .

DECISION AND ORDER

10-CV-408S(F)

1. Plaintiff commenced this civil rights action on May 13, 2010, and the case was referred automatically to the Court's Alternative Dispute Resolution ("ADR") Program upon filing. Plaintiff successfully moved for leave to proceed *in forma pauperis* and, as a result, his *pro rata* share of the mediation fee is waived. Currently before the Court is Plaintiff's Motion to Opt Out of ADR. (Docket No. 35.)

2. Section 2.2(C) of the Court's ADR Plan requires that a party seeking relief from mediation show good cause for the request by stating the reasons why mediation has no reasonable chance of being productive.

3. Plaintiff states he does not wish to participate in ADR because it is an inconvenience for him to travel from Niagara Falls to Buffalo, and he cannot afford to do so. This reason does not constitute good cause.

4. Section 2.2(C) of the ADR Plan, which Plaintiff references in his motion, expressly provides that "[i]nconvenience, travel costs, attorney fees or other costs **shall not** constitute 'good cause.'" In addition, Plaintiff should reasonably anticipate the need to

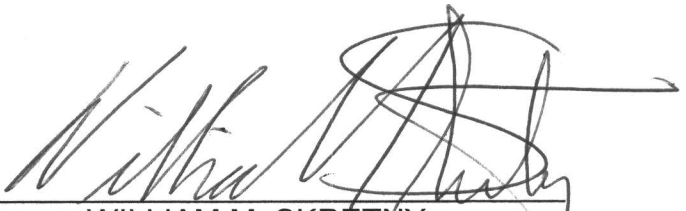
appear at the United States Courthouse in Buffalo on several occasions in the course of prosecuting his case. An appearance for purposes of ADR is part of that process.

5. Accordingly, Plaintiff's Motion to Opt Out of ADR (Docket No. 35) is DENIED.

SO ORDERED.

Dated:

October 12th, 2010
Buffalo, New York



WILLIAM M. SKRETNY
Chief Judge
United States District Court